

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By **VICE CHAIRMAN BOB DEPRATU**, on January 19, 1999  
at 8:00 A.M., in Room 413/415 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 159, 1/15/1999  
Executive Action: None

**HEARING ON SB 159**

**Sponsor:** SENATOR GERRY DEVLIN, SD 2, TERRY

**Proponents:** None

**Opponents:** None

**Informational Testimony:**    **Gordon Morris, Montana Association of  
Counties**

\_\_\_\_\_ **Neil Peterson, Department of Revenue**

**Opening Statement by Sponsor:**

**SEN. DEVLIN** introduced **SB 159** as an act providing a discount, under certain conditions, for the payment with cash or by check of state taxes and fees, when the government entity receiving said payment allows payment of those taxes and fees with a credit card. The discount would be based on the amount charged by the credit card company for accepting credit card payments.

**Proponents' Testimony:**    **None**

**Opponents' Testimony:**    **None**

**Informational Testimony and Questions by the Committee:**

**Gordon Morris, Montana Association of Counties**, said that he had been working with the Budget Office on fiscal notes, and that he had not had a call on this particular bill. He said that in this particular case he believes there would be no significant impact. He said his reasoning is that currently, to the best of his knowledge, only one county is accepting payments by charge card to a limited extent, and that's Cascade County.

**SEN. ELLIS** asked **SEN. DEVLIN** if he concurred with the philosophy of this bill. He said taxing entities could be forced to offer the same discount to all taxpayers, or taxing entities could be forced to get the right amount from the credit card company and let the payee stand the extra charge. **SEN. DEVLIN** said he believes that there is a rule among credit card companies and banks that you cannot add that cost on top of the bill that's paid by a credit card. **SEN. ELLIS** said that's correct, but wondered if that would affect government agencies. **SEN. DEVLIN** said that government agencies would probably be handled the same as other customers.

**Neil Peterson, Process Lead for the Customer Service Center of the Department of Revenue**, said that several years ago the Department of Revenue was accepting credit card payments for individual income tax, and one of the reasons that had to be discontinued was because the Department was charging the fee on top of whatever the tax due was and that was against the rules of the credit card company.

**SEN. DEPRATU** said that as a merchant, his company signs an agreement with the credit card companies that they would not add fees, and also that they won't give discounts for cash.

**SEN. BOHLINGER** asked **SEN. DEVLIN** if he thought this was a fairness issue. **SEN. DEVLIN** said he believes it is a fairness issue because the taxing entity is paying a bank for the privilege of using a credit card to collect their taxes, and therefore, someone who pays with check or cash should be awarded the same consideration.

**SEN. EKEGREN** wondered if all of the counties did in fact start accepting credit cards, whether there would in truth be a fiscal impact. He said that in reality if you pay a 3% fee for accepting credit cards and also extend a 3% discount for cash and checks, you would have a fiscal impact. **SEN. DEVLIN** said he believes there is an impact because the local taxing authority, if they offer payment by credit card and offer a discount for cash or check, would have to absorb that cost.

**Mr. Morris** said that the bill's intent is that if a county gives a person the choice of paying with a credit card or with a check, the person paying with a check should get a discount in the amount of the fee the taxing entity pays for offering credit card payments. He said that if you assume that all property tax payments made with cash or check were going to be entitled to an automatic 3% reduction, and considering that the counties collect \$790 million, that's \$24 million that would have to be written off in terms of school taxes, county taxes, city and town taxes. He said that is where the Department came up with the significant effect to local government.

**SEN. EKEGREN** said it seemed to him that if this bill were to pass, Cascade County would quit using credit cards. **Mr. Morris** agreed that that would probably be the outcome, because they couldn't afford it. He also pointed out that all the taxes that are shared by the state would also be included in sharing the burden. **SEN. EKEGREN** asked if those tax payments made through escrow also get the same discount, and **Mr. Morris** said that he thought they would.

**SEN. ECK** asked **Mr. Peterson** if other states use credit cards for payment of tax, and he said that there are other states that accept credit cards and that they all struggle with these same issues. **SEN. ECK** then asked if there is a break-even point where for small payments it might be cost effective to the government to have it run through credit cards. **Mr. Peterson** said that it does make sense for small tax payments, less than \$100, as far as a cost factor for the Department in processing a credit card

payment versus processing a paper check. It would be more cost effective to get that payment through and discount it 2.199% versus the cost to process that paper check.

**SEN. STANG** asked whether the state pays for every check that's deposited in their account like some businesses do, and **Mr.**

**Peterson** said that the state pays through their bank contract with US Bank \$.05 per check for them to process those checks. However, if they are able to run them through a machine at the Department of Revenue, about \$.025 per check can be saved on the processing fee to US Bank, so they can save about half.

**SEN. STANG** then asked **Mr. Morris** if this might be a local control issue and, if so, why the legislature is trying to decide policy for local governments who have decided to do this. He wondered if this should be something that's brought up to those local commissioners on a county-by-county basis to decide whether to accept credit cards and offer discounts for cash or checks. **Mr. Morris** said he would like to think that it would be a local control issue and not simply a case of "micro management"; however, you have to understand that all local authority comes by virtue of legislative delegation.

**SEN. GLASER** said that the money that's being collected is not all the county's money or the city's money or the school district's money. Part of this is the state's money. He asked if the state gets less money because the counties use credit cards, or if the counties are absorbing the cost of the use of credit cards on the state's share. **Mr. Peterson** said that he could only speak to the Department of Revenue's use of credit cards, but that he would assume that they are discounting the taxes and are giving a portion of those taxes paid to the credit card company or bank. He said that currently the Department is required by the one-stop licensing project legislation to offer credit cards as a form of payment. The average payment is somewhere between \$100 to \$150. He said the Department is not offering the use of credit cards for any other taxes.

**SEN. GLASER** questioned where the county gets the authority to discount the state's share. He asked **Mr. Morris** about whether the state pays a portion of their share for credit card processing, or whether the county and the city and the schools cover that. He also asked who decides to use credit cards, whether it is all entities involved or it is something the county commissioners have assumed. **Mr. Morris** said he would assume that the county commissioners make the decision, understanding that they don't have the statutory authority to do it to begin with so it's questionable utilization.

**Mr. Morris** reiterated, though, that the counties are making very limited use of credit cards. He said that if they are doing it, assuming that they have the discretion to do it, then some portion of that tax would be the state's share, and as a result one would assume that there would be less coming to the state. He said that in the case of Cascade County, they are also adding 2% on top of the bill. He found that interesting in light of the earlier discussion of the committee. **Mr. Morris** said that there would be an impact if it became a statewide practice, but now it's very limited.

**SEN. STANG** said that if counties are collecting the taxes with credit cards, and they're distributing that discount against the taxes that go to the state, there is no authority to do that. He said that they have to submit to the state the amount that's owed to the state. **Mr. Morris** said that in theory, if they did do that, they would be getting \$.97 for every \$1.00 collected and they would simply pro rate that across the levy schedule.

**SEN. ECK** asked **Mr. Morris** if counties are reimbursed for administering property tax collections, and **Mr. Morris** said they aren't. **SEN. ECK** then asked **Mr. Peterson** if in fact the one-stop project legislation requires the state to accept credit cards, and **Mr. Peterson** said that was correct. She then asked if there was any other part of the Department of Revenue that as a matter of policy accepts credit cards or encourages their use, and **Mr. Peterson** said not at this time but it is something the Department is looking at for the future.

**SEN. ELLIS** asked **Mr. Peterson** about his statement that perhaps under \$100 it would be cost effective to take credit cards rather than a check because checks cost \$.05 each for depositing if they weren't run through the Department's machine. **Mr. Peterson** said that it costs the Department about \$.20 an item to open mail, about \$1.20 to actually cash that money, i.e., prepare adding machine tapes, double-check for balancing, et cetera, and about \$.12 per item for records management to keep track of those particular files and store them. Those costs can be cut if payment coupons are used from \$1.20 to about \$.25 to handle a check, so the difference would be about \$1.00 per item. **SEN. ELLIS** asked if the coupon would be like those used to pay income tax, and **Mr. Peterson** said that was correct.

**SEN. BOHLINGER** said that it appears that it's costly to process checks, and he wondered if a positive fiscal note might not be derived if credit cards were encouraged, and **SEN. DEVLIN** said that a lot of the costs are the same either way, but that that would be something to be investigated.

**SEN. DEPRATU** said he knows that a percentage can be discounted by a credit card company if you are dealing in the millions of dollars. He said if credit card usage is set up properly with a sweep account, that money can be put into your account on a daily basis. He said that makes that money available for use more quickly than money from a check, because a check has to be cleared before you actually have available funds. **SEN. DEPRATU** said that he has also experienced that 400 to 500 credit card slips can be processed much more quickly than 100 checks can be. **SEN. STANG** also mentioned that probably 50% of the people don't use credit cards, they use debit cards which come directly out of their checking account. The credit card machines accept both types of cards. **SEN. DEPRATU** also mentioned that you have no bad checks and can save money in collections.

**SEN. ELLINGSON** asked **Mr. Peterson** what share the state would get if a county offered payment by credit card and there was a discount. **Mr. Peterson** said he didn't know, but that he would get that information for the committee.

**Closing by Sponsor:**

**SEN. DEVLIN** said he has asked **Mr. Heiman** to prepare some amendments pertaining to where the counties would get this money for the discounts, **EXHIBIT(tas14a01)**. He said it wasn't addressed in the bill very well, and the amendments will clarify that. He thanked the committee for a very fair hearing.

**ADJOURNMENT**

Adjournment: 8:37 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT** (tas14aad)